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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/538,947	03/31/2000	John S. Haikin	36J.P263	9787

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NEW YORK, NY 10112

EXAMINER

NGUYEN, MADELEINE ANH VINH

ART UNIT PAPER NUMBER

2626

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/538,947

**Applicant(s)**

HAIKIN, JOHN S.

**Examiner**

Madeleine AV Nguyen

**Art Unit**

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-16, 18-25, 28-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5, 7-16, 18-25, 28-40 and 46-54 is/are allowed.
- 6) ☒ Claim(s) 41-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 7, 2005 has been entered.

Applicant cancels claims 6, 17, 26, 37, amends claims 1, 7, 8, 21, 27, 28, 41.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 41, 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falk (US Patent No. 5,760,913).

Concerning claim 41, Falk discloses an apparatus (Fig.2) for integrating characterization information associated with a target image for use with a color reproduction device (101) comprising a color component (204) comprising a color value representing a color patch of a target image, the color component being used by the color reproduction device to create the target image (600); a spatial component (502, 503, or 504, Fig.5), the spatial component

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comprising spatial information of the color patch in the target image, the spatial information relates to a position of the color patch; a measurement component (217, Fig.2) representing a measurement obtained by measuring, using a color measuring device (218), a color of the color patch of the target image based on the spatial information (707, Fig.6); (Figs.4-7; col. 3, line 66 – col. 5, line 29).

Falk does not directly teach that the calibration apparatus 200 (Fig.2) is a memory. However, Falk teaches that the system 200 resides in storage devices 105, 109 (Fig.1). It would have been obvious to one skilled in the art at the time the invention was made to consider the calibration apparatus 200 in Falk a memory as claimed since it resides in both memories 105, 109 while Fig.2 shows the apparatus 200 as one device.

Concerning claims 44, 45, Falk further teaches that the spatial component includes a location of the color patch, and color patch size information (col. 5, lines 19-29).

4. Claims 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falk as applied to claim 41 above, and further in view of Drakopoulos et al (US Patent No. 6,480,299).

Concerning claims 42-43, Falk fails to teach that the memory is an ASCII data file or IT8-formatted data file. However, it is a matter of well known in the art at the time the invention was made that the stored data file in Falk is an ASCII or IT-8 format data file. Drakopoulos et al discloses a color management method/apparatus printer characterization for generating image color matching and ICC color printer profiles using a reduced number of color patch measurements wherein the data file used is ASCII or IT8 formatted data file (col. 11, lines 22-28; col. 12, lines 37-52). It would have been obvious to one skilled in the art at the time the

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invention was made to consider the data file used in Falk is in ASCII or IT8 formatted data file as a matter of well known in the art since both the systems in Falk and Drakopoulos use data file stored in color profiles for color characterization and calibration.

***Allowable Subject Matter***

5. Claims 1-5, 7-16, 18-25, 28-40, 46-54 are allowed.

***Conclusion***

6. Claims 41-45 are rejected, claims 1-5, 7-16, 18-25, 28-40, 46-54 are allowed.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Madeleine AV Nguyen whose telephone number is 571 272-7466. The examiner can normally be reached on Monday, Tuesday, Thursday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly A. Williams can be reached on 571 272-7471. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

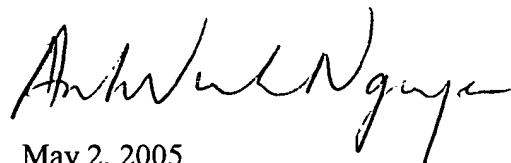
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Madeleine AV Nguyen

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A handwritten signature in black ink, appearing to read "Anh W. Nguyen". The signature is fluid and cursive, with the first name "Anh" and last name "Nguyen" clearly distinguishable.

May 2, 2005

Primary Examiner  
Art Unit 2626